

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIAM D. WILLIAMS,

Plaintiff,

V.

E.A. STEPP, et al.,

Defendants.

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Civil No. **03-824-MJR**

ORDER

PROUD, Magistrate Judge:

Before the Court are two related motions filed by plaintiff. First, plaintiff's motion to compel the defendants to comply with requests for production propounded on September 28, 2006 (**Doc. 89**); and (2) plaintiff's motion to compel the defendants to comply with requests for production propounded on September 28, 2006, and answer interrogatories propounded on September 28, 2006, and October 23, 2006. (**Doc. 93**). The Court notes that attached to the second motion is a copy of requests for admissions propounded October 23, 2006. The Court construes plaintiff's second motion to compel (**Doc. 93**) as including a motion to declare that the requested admissions are deemed admitted pursuant to Federal Rule of Civil Procedure 36(A).

Defendants have respond to both motions to compel. (**Docs. 94 and 95**). Defendants explain that all of the aforementioned discovery requests were "misplaced." Defendants further explain that all but one of defendants are retired and located across the country. In any event, defendants assert the request for production and both sets of interrogatories were responded to on January 19 and 26, 2007. With respect to the request for admissions, defendants note that the requests were not filed with the Court, as required by Local Rule 26.1(b)(1).

Plaintiff's reply to the defendants' response indicates he has never received the defendants' responses; he was unaware of the Local Rule regarding filing requests for admissions, and he does not have access to the Local Rules; and he has acted in good faith. **(Doc. 97).**

Defendants assert they submitted their discovery responses, albeit late. Plaintiff asserts he has not received those responses. Without assigning fault to any party, defendants will have to resubmit their discovery responses to plaintiff. The Court otherwise considers plaintiff's two motions to compel defendant to respond to plaintiff's interrogatories and request for production **(Docs. 89 and 93)** moot.

With respect to plaintiff's request for admissions, defendants correctly observe that plaintiff failed to file the request, as required by Local Rule 26.1(b)(1). Accordingly, defendants were not obligated to respond, and their failure to respond cannot be deemed an admission.

IT IS THEREFORE ORDERED that, for the aforesaid reasons, plaintiff's motions to compel **(Docs. 89 and 93)** are **DENIED**; however, **on or before February 28, 2007**, defendants shall resubmit their responses to plaintiff's interrogatories and request for production.

IT IS SO ORDERED.

DATED: February 16, 2007

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE